

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION**

<b>IN THE MATTER OF</b>	)	
	)	
<b>CITY OF SAN DIEGO</b>	)	COMPLAINT NO. R9-2003-0014
<b>SAN DIEGO CONVENTION</b>	)	FOR
<b>CENTER DEWATERING</b>	)	ADMINISTRATIVE CIVIL LIABILITY
	)	WITH
	)	MANDATORY MINIMUM PENALTIES
	)	January 6, 2003
<b>NONCOMPLIANCE WITH</b>	)	
<b><u>ORDER NOS. 95-25 AND 2000-90</u></b>	)	

**THE CITY OF SAN DIEGO IS HEREBY GIVEN NOTICE THAT:**

1. The San Diego Convention Center is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, San Diego Region (SDRWQCB) may impose civil liability pursuant to the Porter-Cologne Water Quality Control Act, California Water Code (CWC), Section 13385 et seq.
2. A public hearing on this matter is scheduled before the SDRWQCB at its meeting on February 5, 2003, at the Regional Board office located at 9174 Sky Park Court, San Diego, California. The meeting will begin at 9:00 a.m. At the hearing, the City of San Diego will have the opportunity to be heard and to contest the allegations in this Complaint and the imposition of civil liability by the SDRWQCB. Additional notice of this public hearing will be provided to the City of San Diego prior to the hearing date with the agenda for the SDRWQCB meeting on that date.
3. At the hearing, the SDRWQCB will determine the validity of the allegations contained herein and, if the allegations are found to be true, will consider whether to assess civil liability in the amount proposed by this Complaint, or in some other amount.

**ALLEGATIONS**

4. Forty-six violations of Order Nos. 95-25 and 2000-90, *General Waste Discharge Requirements for Temporary Groundwater Extraction and Similar Waste Discharges to San Diego Bay and Storm Drains or Other Conveyance Systems Tributary Thereto*, (Order No. 95-25 was superseded by Order No. 2000-90 on June 14, 2000) were noted in the discharger's self-monitoring reports during the period from January 2000 through August 2002. These violations include effluent limit exceedances for chronic toxicity, acute toxicity, total suspended solids, and copper.

**BACKGROUND**

5. The following facts are the basis for the alleged violations in this matter:

The City of San Diego is approved to discharge groundwater from a permanent dewatering system to San Diego Bay under the provisions of Order No. 2000-90 (and previously under Order No. 95-25). The following are the discharge limitation violations by the City of San Diego during the period in question:

- a. The effluent limit for chronic toxicity (at any time) is 1 TUc.
  - b. The effluent limit for acute toxicity is 0.59 TUa.
  - c. The maximum concentration limit for total suspended solids (instantaneous maximum) is 50 mg/L.
  - d. The maximum concentration limit for total suspended solids (30-day average) is 30 mg/L.
  - e. The maximum concentration limit for copper (instantaneous maximum) is 4.8 µg/L.
  - f. The maximum concentration limit for copper (6-month median) is 3.1 µg/L.
6. The City of San Diego, San Diego Convention Center is approved to discharge up to one million five hundred thousand gallons per day of effluent from its dewatering project to San Diego Bay under the provisions of Order Nos. 2000-90 and 95-25. On March 1, 2001 the City of San Diego altered the original design of the discharge from two separate outfalls into one combined outfall located near the center channel of San Diego Bay.
7. California Water Code Section 13385(h)(1) requires the Regional Board to assess a mandatory penalty of three thousand dollars (\$3,000) for the first serious violation and each additional serious violation in any period of six consecutive months.
8. California Water Code Section 13385(i)(1) requires the Regional Board to assess a mandatory penalty of three thousand dollars (\$3,000) for each additional violation whenever a discharger exceeds a waste discharge requirement effluent limitation four or more times in any period of six consecutive months.
9. In lieu of assessing penalties pursuant to subdivision (h) or (i), the Regional Board, with the concurrence of the discharger, may direct a portion of the penalty amount to be expended on a supplemental environmental project in accordance with the enforcement policy of the state board. If the penalty amount exceeds fifteen thousand dollars (\$15,000), the portion of the penalty amount that may be directed to be expended on a supplemental environmental project may not exceed fifteen thousand dollars (\$15,000) plus 50 percent of the penalty amount that exceeds fifteen thousand dollars (\$15,000).
10. The purpose of the amendments to the California Water Code requiring the assessment of mandatory minimum penalties is to motivate dischargers with discharges in violation of National Pollutant Discharge Elimination System

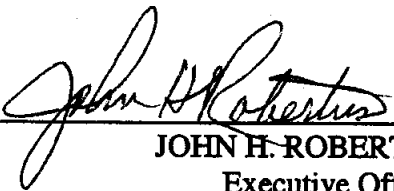
(NPDES) permits to bring their discharges into compliance with permit effluent limitations in an expeditious manner.

11. Attachment No. 1 is a summary of the effluent limitations set forth in Order Nos. 95-25 and 2000-90 and the violations by the City of San Diego, San Diego Convention Center during January 2000 through August 2002.
12. For the purpose of calculating the mandatory minimum penalty associated with the San Diego Convention Center dewatering discharge after March 1, 2001, when the two discharge outfalls were combined into a single discharge point, violations of like constituents occurring on the same day in both sumps 1&2 and 3&4 are combined and considered one violation and assessed one \$3,000 penalty as noted in Attachment No. 1.
13. Attachment No. 2 contains copies of the City of San Diego's self-monitoring reports which identify effluent limit violations between January 2000 and August 2002.
14. Forty-three violations require the assessment of a \$3,000 mandatory minimum penalty for a total of \$129,000 for the period January 2000 through August 2002.

#### **PROPOSED CIVIL LIABILITY**

Pursuant to Sections 13385(h) and (i) of the California Water Code, mandatory minimum penalties shall be imposed on the City of San Diego, San Diego Convention Center, by the SDRWQCB in the amount of \$129,000, the amount of the mandatory minimum penalty, for the identified violations.

Dated this 6th day of January 2003

By:   
JOHN H. ROBERTUS  
Executive Officer